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## In the Claims:

This listing of the claims replaces all prior versions and listing of the claims.

1. (Previously Presented) A method for controlling the periodic data transfer between a first computer processor and a second computer processor, wherein the first computer processor and the second computer processor comprise a network system, the method comprising:

transferring data between the first and second computer processor based on an impact of the transfer on a dynamically determined measure of performance, wherein transferring data between the first and second computer processor based on an impact of the transfer on a measure of performance comprises,

monitoring a real time availability of a system resource, and transferring data between the first and second computer processor based on a comparison of the availability of a system resource to a predetermined threshold; and

transferring data between the first and second computer processor if a predefined maximum time between transferring data has elapsed irrespective of the availability of the system resource.

## 2.-3. (Canceled).

- 4. (Original) The method of Claim 1, further comprising delaying the transfer of data until at least a predefined minimum time has elapsed after a prior data transfer.
- 5. (Previously Presented) The method of Claim 1, further comprising sending a resource availability request from the first computer processor to the second computer processor to determine resource availability.

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- 6. (Original) The method of Claim 1, wherein transferring data between the first and second computer processor further comprises replicating data.
- 7. (Original) The method of Claim 1, wherein transferring data between the first and second computer processor further comprises backing up data.
- 8. (Previously Presented) The method of Claim 1, wherein the system resource is usage of the first and/or second computer processor.
- 9. (Previously Presented) The method of Claim 1, wherein the system resource is memory usage of the first and/or second computer processor.
- 10. (Previously Presented) The method of Claim 1, wherein the system resource is central processor unit (CPU) usage of the first and/or second computer processor.
- 11. (Previously Presented) The method of Claim 1, wherein the system resource is an available bandwidth on a network connection.
- 12. (Previously Presented) A computer program product for controlling data transfer between a first computer processor and a second computer processor, wherein the first computer processor and the second computer processor comprise a network system, comprising:

a computer readable medium having computer readable program code embodied therein, the computer readable program code comprising:

computer readable program code which transfers data between the first and second computer processor based on an impact of the transfer on a dynamically determined measure of performance, wherein the computer readable program code which transfers data between the first and second computer processor based on an impact of the transfer on a measure of performance comprises,

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computer readable program code which monitors a real time availability of a system resource, and

computer readable program code which transfers data between the first and second computer processor based on a comparison of the availability of a system resource to a predetermined threshold; and

the computer readable program code further comprising computer readable program code which transfers data between the first and second computer processor if a predefined maximum time between transferring data has elapsed irrespective of the availability of the network resource.

## 13.-14. (Canceled)

- 15. (Original) The computer program product of Claim 12, further comprising computer readable program code which delays data transfer until at least a predefined minimum time has elapsed after a prior data transfer.
- 16. (Previously Presented) A system for controlling data transfer between a first computer processor and a second computer processor, wherein the first computer processor and the second computer processor comprise a network system, comprising:

means for transferring data between the first and second computer processor based on an impact of the transfer on a dynamically determined measure of performance, wherein the means for transferring data between the first and second computer processor based on an impact of the transfer on a measure of performance comprises,

means for monitoring a real time availability of a system resource, and
means for transferring data between the first and second computer processor
based on a comparison of the availability of a system resource to a predetermined threshold;
and

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means for transferring data between the first and second computer processor if a predefined maximum time between transferring data has elapsed irrespective of the availability of the network resource.

17.-18. (Canceled).

- 19. (Original) The system of Claim 16, further comprising means for delaying data transfer until at least a predefined minimum time has elapsed after a prior data transfer.
  - 20. (Canceled)